

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 901:5-57-04
Rule Type: Rescission
Rule Title/Tagline: Conditions of movement.
Agency Name: Department of Agriculture
Division: Plant Industry
Address: 8995 East Main Street Reynoldsburg OH 43068
Contact: David E Miran
Email: david.miran@agri.ohio.gov **Phone:** 614-728-6390

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 8/13/2018
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 927.52, 927.71
5. **What statute(s) does the rule implement or amplify?** 927.71
6. **What are the reasons for proposing the rule?**

This rule is up for five year rule review.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rules contained in this chapter establish a quarantine against the highly destructive insect *Anoplophora glabripennis*, more commonly known as the Asian longhorned beetle (hereinafter "ALB" or "plant pest"). The Ohio Department of Agriculture (Department) established this quarantine to prevent the plant pest's

artificial spread in the state of Ohio in order to protect Ohio's forest, timber and wildlife resources from this destructive pest.

In June 2011, ALB was discovered in Tate Township in Clermont County. This plant pest has no known natural predators and poses a threat to Ohio's hardwood forests (more than \$2.5 billion in standing maple timber) and the state's \$5 billion nursery industry which employs nearly 240,000 people. To keep this plant pest from spreading across Ohio, the Department has established a quarantine restricting movement of regulated articles throughout the quarantine area.

The rules contained in this package focus on science-based practices which support responsible agriculture practices while allowing Ohio to continue to grow its vital silviculture industry.

OAC § 901:5-57-04 sets forth the regulated articles for the quarantine. The current OAC § 901:5-57-04 is being rescinded and replaced by the proposed new version. The rescission is due to changing more than 50% of the original rule in accordance with the Legislative Services Commissions' administrative rule drafting manual. While a new rule is being proposed, there are minor substantive changes to this rule. First, the rule has been amended to make a stylistic change that places the rule in line with the other plant pest quarantine rules administered by the Department. Secondly, Celtis, commonly known as Hackberry, has been removed from this list.

8. **Does the rule incorporate material by reference? No**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

The incorrect rule file was uploaded to the ERF system.

II. Fiscal Analysis

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

Not applicable.

12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

Individuals are prohibited from moving any regulated article from a regulated area into a non-regulated area unless they meet the conditions of movement in OAC 901:5-57-03. Individuals may be prohibited to ship to and from certain regulated areas which may cause lost potential profits. However, this quarantine has been in place since 2011 and the marketplace has adjusted accordingly.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

III. Common Sense Initiative (CSI) Questions

15. Was this rule filed with the Common Sense Initiative Office? Yes

16. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

Individuals are prohibited from moving any regulated article from a regulated area into a non-regulated area unless they meet the conditions of movement in OAC 901:5-57-03.

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes

Individuals who illegally ship their products into Ohio may be subject to civil or criminal penalties.

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No